

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:21-cv-5-MOC-DSC**

<b>DANTE MURPHY,</b>	)	
	)	
<b>Plaintiff, pro se,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>CLEVELAND COUNTY, et al.,</b>	)	<b><u>ORDER</u></b>
	)	
<b>Defendants.</b>	)	
_____	)	

**THIS MATTER** is before the Court on a Motion for Summary Judgment, filed by Defendant Cleveland County, (Doc. 35), and on Plaintiff's Notice to the Court that he would like to conduct discovery.

**I. BACKGROUND AND DISCUSSION**

In the underlying action, pro se Plaintiff Dante Murphy has sued Defendant Cleveland County, alleging various claims of employment discrimination. On March 31, 2021, Defendant filed a Motion to Dismiss Plaintiff's Complaint (Doc. 11) and Memorandum of Law in Support thereof.<sup>1</sup> (Doc. 12). On August 2, 2021, this Court held oral arguments on the motion to dismiss, which the Court granted in part and denied in part on August 26, 2021. (Doc. 28).

After receiving an extension of time to Answer or otherwise respond, Defendant filed the pending summary judgment motion on September 23, 2021. (Doc. 35). On November 17, 2021,

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<sup>1</sup> All other Defendants were dismissed from this lawsuit on August 26, 2021, including Cleveland County Department of Social Services, Cleveland County Board of Commissioners, Doug Bridges (Individual and Official Capacity) and Katie Swanson (Individual and Official Capacity). Cleveland County is the only remaining Defendant. See (Doc. 28).

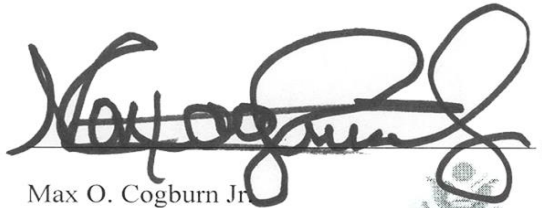
this Court entered an Order requiring Plaintiff to notify the Court whether he would like to conduct discovery before the Court rules on the pending summary judgment motion. Plaintiff has notified the Court that he does want the opportunity to conduct discovery. See (Doc. No. 44).

Therefore, the Court denies Defendant's summary judgment as premature. Furthermore, the Court orders Defendant to file an Answer within 14 days. The filing of an Answer will trigger the Court to issue a notice to the parties to conduct an initial attorney's conference. After that, the Court will enter a scheduling order setting forth the deadlines for discovery.

**IT IS, THEREFORE, ORDERED** that:

1. Defendant's Motion for Summary Judgment (Doc. No. 35) is **DENIED** as premature.
2. Defendant shall file an Answer within 14 days of the entry of this Order.

Signed: December 9, 2021



Max O. Cogburn Jr.  
United States District Judge